Remarks

Claims 11 to 14 are added. Claims 1 to 14 are pending in this application of which claims 1, 8 and 11 to 14 are in independent form.

Claims 1 and 8 were rejected under 35 USC 102(e) as being anticipated by Shuman et al. The following will show that claims 1 and 8 patentably distinguish the applicants' invention over this reference.

Shuman et al is directed to a method and a system for computing architecture in a vehicle. A first group of sensors are provided which detect the ambient conditions around the vehicle. Furthermore, vehicle operations programming applications are provided which determine a desired vehicle operation in dependence upon the environment of the vehicle. A driver interface receives inputs of the operator of the vehicle. The vehicle operations programming applications include, for example, an adaptive cruise control. An application the adaptive cruise control is set forth in column 22, starting at line 23, of this reference. There, it is described that a speed calculation process computes a desired vehicle speed. The speed calculation process outputs data indicating the calculated speed along with a request to adjust the vehicle speed to the critical vehicle control program 230. The speed calculation process continuously updates its calculation to take into account changes in the vehicle environment which may require a speed increase or a speed reduction or a stopping of the vehicle (please see column 22,

lines 39 to 46).

From the above, it can be seen that Shuman et al is directed to the computation of a desired value for the vehicle speed in dependence upon the environment of the vehicle.

In contrast to Shuman et al, an operator-controlled element is actuated in the applicants' invention in order to change a desired value for the speed. The extent of the change of the desired value, which is initiated by the actuation of the operator-controlled element, is then adjusted in dependence upon at least one piece of data as to an actual driving situation of the vehicle.

In Shuman et al, the vehicle environment is considered independently of an actuation of an operator-controlled element to change the desired value for the speed. When the vehicle environment requires an acceleration, a deceleration or a stopping of the vehicle, then this is considered in the computation of the desired value for the vehicle speed as set forth in Shuman et al at column 22, lines 44 to 46.

In contrast to Shuman et al, in applicants' claim 1, the change of the desired value of the vehicle speed is not triggered by the environment of the vehicle but by the actuation of an operator-controlled element. This feature and limitation is recited in claim 1 with the clause:

> "changing a desired value for said speed by actuating an operator-controlled element; and,"
>
> "adjusting the extent of the change of said desired value in dependence upon at least one piece as data as to the instantaneous driving situation of said vehicle." (emphasis added)

No suggestion for the above method steps is set forth anywhere in Shuman et al. In Shuman et al, the vehicle environment is considered independently of an actuation of an operator-controlled element to change the desired value for the speed. When the vehicle environment requires an acceleration, a deceleration or a stopping of the vehicle, then this is considered in the calculation of the desired value for the vehicle speed (see column 22, lines 44 to 46).

In contrast, in applicants' claim 1, the change of the desired value of the vehicle speed is not triggered by the environment of the vehicle; rather, the change of the desired value is triggered by the actuation of an operator-controlled element. Only the extent of the change of the desired value, which is required by the actuation of the operator-controlled element, is determined in dependence upon the instantaneous driving situation of the vehicle. In this way, the method steps of applicants' claim 1 effect the advantage that, on the one hand, the instantaneous driving situation is considered in the adjustment of the desired value for the speed and, on the other hand, this consideration of the instantaneous driving situation of the vehicle requires a command of the driver to change the desired value for the speed which becomes effective by a corresponding actuation of an operator-controlled element. In this way, the consideration of the instantaneous driving situation of the vehicle in the determination of the desired value for the speed is subordinated to the command of the driver after changing of the desired value for the speed. Accordingly, the driver command maintains the highest priority.

In contrast, in Shuman et al, the vehicle can be accelerated, decelerated or brought to standstill in dependence upon the vehicle environment even against the command of the driver. The command of the driver in Shuman et al therefore does not have the highest priority.

From the above, it can be seen that Shuman et al would lead the person of ordinary skill away from the subject matter of applicants' claim 1.

In view of the above, applicants submit that claim 1 should now patentably distinguish their invention over Shuman et al and be allowable as should independent claim 8 which parallels claim 1 in an apparatus context.

Claims 2 to 7 were rejected under 35 USC 103(a) as being unpatentable over Shuman et al in view of Vaughn. In the above, applicants have shown the deficiencies of Shuman et al and Vaughn does not fill the void left thereby. This reference is directed to a GPS-map speed matching system for controlling the speed of a vehicle.

This teaching cannot be combined with Shuman et al to arrive at the applicants' invention which requires an actuation of an operator-controlled element to change the desired value which is adjusted in dependence upon the instantaneous driving situation of the vehicle.

Claims 2 to 7 are dependent from claim 1 and claims 9 and 10 are dependent from claim 8 so that these claims too should now be allowable.

In the added claims, a desired value for the speed is changed by a pregiven step width via a one-time actuation of an

operator-controlled element. The step width for changing the desired value is dependent upon the instantaneous actual speed of the vehicle or the permissible highest speed on the roadway then traveled over by the vehicle.

The added claims are even further remote from Shuman et al than independent claims 1 and 8 because they provide for a change of the desired value for the speed by a pregiven step width via a one-time actuation of an operator-controlled element for which no suggestion is provided by Shuman et al.

In addition, Shuman et al contains no hint to utilize the actual speed or the permissible highest speed for the determination of the step width of a change of the desired value for the speed required by the driver by the actuation of the operator-controlled element.

In view of the foregoing, applicants submit that the added independent claims 11 to 14 should now likewise patentably distinguish the application over Shuman et al and be allowable.

Reconsideration of the application is earnestly solicited.

Respectfully submitted,

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